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## LOCAL AND STATE REGULATION OF MUNICIPAL UTILITIES

REMARKS OF HON. JOHN PURROY MITCHEL, AS PRESIDING OFFICER

*Fellow Mayors and Ladies and Gentlemen:* When Mayor Blankenburg requested me to join with him in issuing the call for this conference, I did so very gladly because of the dual purpose that I understood would underlie the deliberations that are going on here in this city at the present time. I understood that the mayors of American cities were invited to come here to consider the establishment of what I may call perhaps a clearing house of information concerning public service corporations—a clearing house through which the various cities of this country could learn authoritatively the facts on which their judgments and their actions in dealing with the public service corporations of the country might be predicated. We in New York have felt the necessity for some agency through which we could obtain authoritatively this information, for we have lacked it many times in the past. Today, when we are dealing with our electric lighting corporations, we lack certain essential and fundamental facts on which to predicate our judgments. The commissioner of water supply at this moment is called upon to sit in judgment to fix the rates of the private water companies operating in the great Borough of Queens—a power and a duty conferred upon him by the statutes of the state; and yet he lacks the information at present which would permit him to fix those rates authoritatively and to relieve the people of the Borough of Queens from the burden of overcharges from which they allege that they are suffering at the present time. I have in mind, too, my own experience as president of the Board of Aldermen, when the city of New York was dealing with the great problem of rapid transit. There were there a multitude of questions, all of which for their settlement required an intimate knowledge of the business of the public service corporations with which we were dealing. Millions of dollars turned on questions of obsolescence and depreciation. We went out and tried to get our facts by asking the advice of

men versed in railroad business, and it was only with the greatest difficulty, and after the most careful investigation, that we finally secured the body of facts on which our judgment was predicated, and even then, as many of you will doubtless recollect, there was a wide and radical divergence of opinion when that question finally came up for settlement.

The other purpose of this conference, as I understand it, was to discuss the question of state regulation as against local regulation of public utilities.

Now, my friends, we have reached in the United States, very much more quickly than seemed possible six years ago, a condition where regulation of public utilities is taken as a matter of course. Forty-five of the forty-eight states now have public utilities commissions, and in a number of cities, particularly in the west, there are municipal agencies for fixing rates and controlling the character of public utility service. We have progressed so far in this direction that a non-regulated public utility is almost as foreign to the thought of managers of public service corporations as it is to public officials and communities for whose service these corporations are established.

In the last ten years there has been implanted for all time in the conscience and the will of the American people an ineradicable hostility to the exploitation of communities by public service companies and to prodigality in franchise grants. As we have reaped the benefits of regulation and have established new standards for franchises, the old hostility to public utility corporations has very largely waned. This has been helped by a decided change in the managerial policy of many of these corporations, which have sought to win the approval of the public by effective service and fair treatment, rather than to extort maximum profits with a minimum of service. This is not only a well-considered policy from the standpoint of good business, but from the standpoint of public opinion as well.

The American people are no longer content to suffer imposition at the hands of public service corporations on the theory that these corporations are public benefactors ministering to wants unsatisfied because of public impotence. I think that we may safely say that in every great city in America public opinion has reached this point, that it expects and demands a very high grade of service from its public service corporations, and clean, efficient and straightforward

management of its utility enterprises. It is prepared, in case such service is not forthcoming, to utilize the resources of the community to provide the necessary conveniences of community life through public ownership.

Public ownership is no longer a creed or a propaganda directed against an intrenched and irresponsible public-be-damned policy of corrupt utility companies. It has become now a reserve power, of which the cities are conscious, to be called on in case private management fails to improve the standards of service which contemporary public opinion demands.

What cities want is a high quality of service at rates which are just in the sense that they make adequate returns on fair investment and provide for the proper upkeep of operating properties. There is no considerable public opinion in favor of exploiting the public utility companies in the temporary interest of the public, because men who have given thought to public utility questions realize that you cannot mulct a public service corporation, any more than you can any other corporation, of its just profits and expect efficient management; that you cannot demand low rates at the expense of proper funds for depreciation, for obsolescence and for maintenance; that you must have fair wages and just labor conditions before you can think of rate reductions. In other words, that the first considerations are service rendered to the public and a wholesome, sound management of the enterprise; after that you can consider rate reductions or revenues for the benefit of the city treasury.

I did not mean to be understood to say that we now condone the short-sighted policy of those who in the earlier days of our great city practically gave over in perpetuity the most precious asset in our community life, the right to perform services for profit which every member of the community requires. We realize in those cities where the cost of government is mounting rapidly, because of the complexity of social conditions resulting from their enormous size and as a result of the tremendous expenditures required for the physical development of vast territories, how valuable would be the possession of those enterprises to provide revenue for the benefit of the whole public.

Think of what the condition was, before these awful later days, in German cities. For example, in Dresden a considerable part of the municipal revenues is derived from the profits of publicly

owned utilities, and the service of those utilities is in conformance with the demands of that community. But in New York our taxes increase to meet the burden of the vast annual charges for debt incurred for streets, schools, hospitals and subways, and there is only a meagre countervailing revenue from the enterprises which derive their sustenance from the use of the property which belongs to all the people of the city.

But I close the door to all this, for we are not advocating the conversion in New York of those enterprises from private to public ownership; but we are definitely committed, as we have been for the past seven years, to a policy of rigorous control of their management through the service of a state commission.

In New York our public service commission is divided into two divisions of equal number and equal power. The first division has jurisdiction only over the greater city, and the second division over the rest of the state. Both commissions are appointed for a term of years by the governor of the state. The commission controlling the utilities of New York City is not only irresponsible in New York to the electorate of that city, but it may levy on us practically without limit for funds it deems it necessary to expend for its purposes.

We have benefited a great deal in New York from the work of the public service commission, but I believe that this benefit has been as much indirect as it has been direct. The presence of the commission and the temper of public opinion that its creation represented brought about a decided change in the policy of our great public service corporations. Perhaps nowhere in the world is the problem of public utilities regulation so complex and so extensive as it is in New York, where we have one hundred and two (102) separate companies with a combined capital stock and funded debt amounting to \$1,100,000,000.

Our commission in New York is now primarily a commission of construction, for it has committed to it the enormous function of a rapid transit board charged with the development and construction of the city's rapid transit system. It is now engaged on the huge enterprise of building approximately four hundred track miles of new subway and elevated lines which are to make up our extended rapid transit system. Its principal energies are directed to this problem, and in the execution of this task it is working in coöperation with the two principal street railway companies that control the vast majority of the city's rapid transit lines.

In a sense, therefore, the state and city have gone into partnership in New York with the public utility corporations. They have pooled their interests so far as the new rapid transit routes are concerned. We are now looking forward definitely to the time when there will revert to the city all the subway and elevated lines embodied in the extended system, the cost being amortized during the period of the franchise which will terminate finally about the year 1966. Meanwhile the lines are in the hands of private companies, those parts of the system built and owned by the city being under lease to them.

That the public service commission has been a great benefit to New York cannot, as I have said, be questioned. Some of us have felt at times that it lacks in aggressiveness, that it is insufficiently constructive, that it speaks not so much of the strength and purpose of the community as it does the mandates of the law which created it. We do not feel that it is a part of us, that it is closely enough in touch with public thought. I, personally, felt this to such an extent that on becoming mayor I undertook to have organized in the law department of this city a special division on public utilities, which is prepared today to prosecute complaints before the public service commission as a regulative body, and is intended to represent the people of the city of New York in their relations with public service corporations.

A state commission, I think, may be said to acquire after a while a somewhat supernatural, almost a deistic character. It grows remote and in a measure intangible. For this reason I have thought sympathetically of a plan to establish a local commission, which will be responsible to the people of the city, which will speak the voice and interest of the people of the locality and be alive to the demands and necessities of the community which it is established to serve. After all, there is a very intimate relationship between the corporate life of a great city and the smaller but very powerful and influential corporate entities which operate public utilities in the community. You cannot divorce them. The state, on the other hand, is in large measure an abstraction. It has no personality, no heart, no appetite, no desire as the city has.

But I must not anticipate the discussion which is to follow. I have ventured to speak aloud these thoughts on this subject in order that I myself, with you, may be prepared for the interesting discussion which is now to follow.